D.B. Civil Review Petition No.15/89
Gopal Singh Vs. State

Date of Order : 29/08/2006

Hon'ble The Chief Justice Shri S.N. Jha
Hon'ble Shri Justice Ajay Rastogi

Shri Sobhit Tiwari for] for petitioner
Shri Manish Bhandari]
Shri B.L. Awasthi, Addl.G.A.

The review petition has a somewhat chequered history. The petitioner filed D.B. Civil Writ Petition No.1056/83 challenging the order dated 12th October, 1977 by which he had been removed from service as a measure of punishment under Rule 16 of Rajasthan Civil Services [Classification, Control & Appeal] Rules, 1958 in departmental proceeding, as well as the orders dated 3/3/78 and 18/5/81 by which his appeal and review petition were rejected. The petition was dismissed by judgment and order dated 1st February, 1989 by a Division Bench of this court. The petitioner filed petition seeking review of the judgment. Curiously, the petition was taken up and decided finally by a Single Judge who happened to be member of the Bench which had passed the main judgment on 23rd September, 1991. The learned Judge while allowing the review petition recalled the judgment dated 1st February, 1989 and quashed the orders under challenge referred to above and, further, directed the petitioner to be reinstated treating him in service as if there was no termination of his service, with all consequential benefits. The order was challenged by the State of Rajasthan in

Special Leave Petition [Civil] No.522/92. By order dated 17th September, 1993, the Supreme Court set aside the order of the learned Judge dated 23rd September, 1991 and remitted the matter to this court with direction that the review petition be placed for disposal before a Bench of two Judges. That is how the review petition came up for consideration before the Division Bench.

We have heard counsel for the parties and perused the records.

The Division Bench while declining to interfere with the impugned orders of removal etc. went into the entire gamut of dispute and recorded findings negativing the contentions of the petitioner. If he was not satisfied he should have challenged the order in the Supreme Court. He, however, preferred to file review petition. As is well known review of any decision/order can be sought only on fresh grounds or facts which were not known to the person. The order of the Division Bench in the instant case was sought to be questioned by way of review on same grounds on which the order of removal etc. had been challenged in the writ petition, such as that order of removal was not speaking one. It is well known that while departmental proceedings are quasi-judicial in nature, the order of punishment passed therein is an administrative order. Administrative orders, it is well settled, need not be speaking. As a matter of fact, the scope of judicial

review also is well settled by decisions of the Apex Court. While making judicial review of an administrative action, the High Court can look into the correctness or otherwise of the decision making process, it can not examine the correctness of the decision itself. No error of procedure or violation of rule has been pointed out to us. The petitioner was given opportunity to defend himself and he cannot ask this court to review the order as if we were sitting in appeal.

All said and done, the order of removal was passed about 29 years ago and though at one stage, order of reinstatement was passed, the same was set aside by the Supreme Court soon after. The petitioner has remained out of employment for about 29 years. He must have crossed the age of superannuation during the intervening period.

In the result, we find no merit in this review petition and the same is, accordingly, dismissed.

[AJAY RASTOGI],J. **[S.N. JHA],CJ.**

FRBOHRA,Jr.P.A.